

Members

Sen. Beverly Gard, Chairperson
Sen. Kent Adams
Sen. Glenn Howard
Sen. Vi Simpson
Rep. Ron Herrell
Rep. Jonathan Weinzapfel
Rep. Richard Mangus
Rep. David Wolkins
Gary Reding
Randy Edgemon
Mayor William Goffinet
Mayor James Trobaugh
Art Smith, Jr.
Ellen Tobias
William Hayden
Kerry Manders
Lori Kaplan



ENVIRONMENTAL QUALITY SERVICE COUNCIL

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Authority: P.L. 248-2001 (SEA 121)

MEETING MINUTES¹

Meeting Date: August 7, 2001
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington
St., Room 233
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Sen. Beverly Gard, Chairperson; Sen. Vi Simpson; Rep. Ron Herrell; Rep. Richard Mangus; Rep. Jonathan Weinzapfel; Rep. David Wolkins; Randy Edgemon; Mayor William Goffinet; William Hayden; Kerry Manders; Gary Reding; Ellen Tobias; Mayor James Trobaugh

Members Absent: Sen. Kent Adams; Sen. Glenn Howard; Lori Kaplan; Art Smith, Jr.

Sen. Gard opened the meeting by reviewing the changes resulting from the reauthorization of the Environmental Quality Service Council ("EQSC") in P.L. 248-2001 (SEA 121). All members were introduced. Sen. Gard noted that it is expected that one more individual

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representing environmental interests will be appointment to the EQSC.

Tim Method, Deputy Commissioner, Indiana Department of Environmental Management ("IDEM") gave the commissioner's report, which included the following:

1. Outreach, education, and assistance from November 1, 2000 through June 30, 2001
2. Rulemaking updates for the environmental rulemaking boards
3. Fees collected
4. Permit report cards
5. Permit charts
6. Sample news releases from November 14, 2000 through July 31, 2001
7. "IDEM 2001 Legislative Summary"
8. IDEM's legislative web page
9. Handouts for presentation on update of NOx rulemaking
10. Handouts for presentation on update of Ground Water rulemaking
11. Handouts for presentation on progress report on TMDL work group

Sen. Gard asked what factors delay the issuance of NPDES permits. Mr. Method indicated that with respect to combined sewer overflow issues, compliance schedules are being worked out with municipalities. Some permits will be updated after matters relating to the Great Lakes Initiative are settled, including the generation of water quality monitoring information and interpretations on how to apply antidegradation. Generally, IDEM is working with permittees to resolve compliance issues before the issuance of permits. Mr. Method responded to questions from Bill Hayden that IDEM has the expertise necessary to deal with issues related to the Great Lakes Initiative, and that IDEM is working on a schedule for the issuance of permits.

Mr. Method reviewed recent personnel changes at IDEM.

Mr. Method indicated that IDEM has been working with municipalities and citizen groups to finalize long term control plan guidance and use attainability analysis guidance, and is close to completion of the project. The Water Pollution Control Board ("WPCB") began the process of rulemaking on wetlands, and a work group has been addressing the current issues. IDEM has also recently provided information to municipalities concerning stormwater requirements. IDEM is meeting with a group of public water suppliers to develop guidelines for drinking water systems.

In response to a question from Sen. Gard, Mr. Method gave a status report on the recent fish kill in the Lick Creek tributary to the White River.

In response to a question from Rep. Weinzapfel, Mr. Method indicated with respect to wetlands rulemaking by the WPCB that an effort is being made to restore the status quo that preceded the recent Supreme Court ruling with respect to isolated waters no longer subject to federal jurisdiction. In response to a question from Rep. Herrell, Mr. Method indicated that litigation has been initiated to prevent IDEM from taking action with respect to isolated waters that were the subject of the Supreme Court ruling. Sen. Gard indicated her intent that the EQSC will look into the ongoing authority of IDEM in this area considering the ruling.

Mr. Method, assisted by Roger Letterman of IDEM, gave an air issues update, focusing on the recently adopted rule of the Air Pollution Control Board on NOx emissions reductions and reduction of regional ozone transport. The report cited: the requirement for statewide reduction of NOx emissions of 31% by 2007; the control measures that must be in place by May 31, 2004; the applicability of the rule only during the ozone season; the regional

emissions cap and trade program administered by U.S. EPA; and the similar rules under development or in place in twenty-two states in the eastern U.S.

In response to questions from Sen. Gard concerning other emissions, Mr. Method reviewed the programs currently in place for control of emissions of various elements, and indicated that Indiana's NOx proposal is consistent with the federal model and proposals by other states.

In response to a question from Mr. Hayden, Mr. Method indicated that all existing power plants are subject under the rule to the same NOx reduction requirements, regardless of the age of the plants. Greater restrictions apply to new construction.

In response to questions from Rep. Weinzapfel, Mr. Method indicated that Kentucky is processing NOx rules similar to the Indiana rules, reviewed the applicable percentage NOx reductions, and commented on the potential impact of a recent federal proposal concerning the division of environmental enforcement responsibilities between the states and the U.S. EPA. Mayor Goffinet suggested to Mr. Method that IDEM should closely monitor the impact on Indiana of airborne pollutants from plants in Kentucky.

Mr. Method and Patrick Carroll of IDEM made a presentation on groundwater protection and the proposed groundwater rule. They contrasted existing protections to those applicable to surface water and air, and reviewed the various programs in place in Indiana to protect or clean up groundwater. They discussed: the background of the development of the proposed rule; the standards established in the proposed rule; the criteria for application of the standards; the concerns of citizen groups and the regulated community about the proposed rule; common misunderstandings about the proposed rule; issues about which there is generally a consensus; and how the standards will be used if the proposed rule is adopted. Sen. Simpson explained the changes to the proposed rule that she and Rep. Kruzan recommended to the WPCB, and Mr. Method commented that IDEM supports the proposed changes. Mr. Hayden explained his concern that the proposed rule does not adequately recognize the interplay between groundwater and stream water quality, especially in low flow situations, and the possibility that streams can be contaminated by an inflow of contaminated ground water. Sen. Simpson commented that it would be useful for the EQSC to receive reports from agencies as rules are promulgated that implement the groundwater standards. In response to a question from Sen. Gard, Mr. Method indicated that it could be two years or longer before the other agencies complete promulgation of such rules.

Cyndi Wagner of IDEM made a presentation on the progress of the Total Maximum Daily Load ("TMDL") Workgroup. She described the activities of the WPCB pursuant to P.L. 140-2000 (SEA 431) to establish policies and rules to govern the implementation of TMDL requirements of Section 303(d) of the Clean Water Act. As directed by P.L. 140-2000, IDEM has appointed a working group of stakeholders with respect to the implementation of TMDL requirements. The working group has been meeting monthly since October, 2000, has established subcommittees, and expects to complete its work by March, 2002. IDEM will complete TMDL rulemaking by October 1, 2003. U.S. EPA promulgated its rules in July, 2000, and Congress has prohibited U.S. EPA from putting the rules into effect by denying funding for that purpose. The rules have also been challenged in court, and U.S. EPA in response to the court challenges has extended until 2003 its consideration of the rules for possible revision. This extension complicates the WPCB's efforts to promulgate a rule.

Sen. Gard reviewed the issues assigned by the Legislative Council to the EQSC. The EQSC will work on an inventory of environmental technical assistance programs. Sen.

Kenley will be invited to a future meeting to discuss the issue of environmental crimes, and the EQSC will consider how the issue might be addressed in 2002 or beyond by a special commission or otherwise. The EQSC will also consider recycling issues, the efficiency of state wastewater and drinking water fund programs, and the possibility of expanding those programs to cover nonpoint source pollution control projects. The EQSC will also do some research on the impact of increased levels of outdoor lighting.

Sen. Gard opened discussion from council members on other possible issues for consideration by the EQSC. Mr. Hayden suggested a review of low flow issues from prior years, and a review of IDEM staffing. Sen. Gard commented that the EQSC might ask IDEM for an update on the combined sewer overflow issue. Sen. Simpson suggested consideration of comprehensive collection of data on environmental impacts on child and family health.

Sen. Gard asked for suggestions on issues for EQSC consideration from the public. Glenn Pratt suggested consideration of low flow issues, watersheds (including further consideration of septic system issues), brownfields, funding of the Clean Water Indiana program, and the adding of chemicals to reservoirs.

The next meeting of the EQSC is scheduled on September 4, 2001, at 1:00 p.m. in Conference Rooms 4 and 5, Conference Center, Indiana Government Center South, 402 West Washington Street, Indianapolis. Council members were asked to provide to staff their e-mail addresses and telephone numbers to facilitate coordination of availability for future meetings.

Sen. Gard adjourned the meeting.